

ESTTA Tracking number: **ESTTA543861**

Filing date: **06/19/2013**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91208003
Party	Plaintiff Red Bull GmbH
Correspondence Address	Martin R. Greenstein TechMark a Law Corporation 4820 Harwood Road, 2nd Floor San Jose, CA 95124 UNITED STATES MRG@TechMark.com, LZH@TechMark.com, MPV@TechMark.com, AMR@TechMark.com
Submission	Other Motions/Papers
Filer's Name	Leah Z Halpert
Filer's e-mail	MRG@TechMark.com, LZH@TechMark.com, AMR@TechMark.com
Signature	/Leah Z Halpert/
Date	06/19/2013
Attachments	Michael Ball RED Applns-91208003-Mtn to Suspend.pdf(60350 bytes )



Motion to Suspend the Appeals, and instead moves to suspend the instant opposition rather than the appeals

The subject opposition and the appeals of the Appealed Applications both deal with a question of likelihood of confusion between Applicant's +RED-formative marks and Opposer's prior-registered marks in Class 32. If likelihood of confusion is found in one situation, as Applicant's marks are nearly identical in both cases and cover the same products, likelihood of confusion will necessarily be found in the other. As such, both matters before the Board are dispositive of this issue. However, for reasons of judicial economy, the opposition should be suspended pending disposition of the Appeals, rather than the other way around. The appeal process is an *ex parte* process that is less costly to and uses less resources of both the party involved and the Board, does not include extensive discovery and trial periods, and will ultimately result in a decision much more quickly than an *inter partes* opposition proceeding (especially seen in light of the fact that the subject opposition has yet to reach the discovery phase as it has been suspended for nearly four months awaiting a decision on a motion to strike portions of Applicant's Answer). As a decision on the Appeals will be dispositive of the issues in the subject opposition as well, the parties and the Board can avoid wasting extensive time, money, and its own resources by simply suspending the instant *inter partes* action pending the disposition of the Appeals.

Accordingly, for the foregoing reasons, Opposer respectfully requests that the subject opposition be suspended pending Applicant's related *ex parte* appeals of Appln. Nos. 85/351,186 and 85/351,334.

RED BULL GMBH  
By: /Martin R. Greenstein/  
Martin R. Greenstein  
Leah Z. Halpert  
Angelique M. Riordan  
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San Jose, CA 95124-5273  
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E-Mail: MRG@TechMark.com  
Attorneys for Opposer Red Bull GmbH

Dated: June 19, 2013

### **CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing **OPPOSER'S MOTION TO SUSPEND OPPOSITION NO. 91-200,803** is being served on June 19, 2013, by deposit of same in the United States Mail, first class postage prepaid, in an envelope addressed to Applicant's Counsel at their Correspondent address given on the TARR website, with a courtesy copy via email to [cwcdocketing@roylance.com](mailto:cwcdocketing@roylance.com).

Casimir W. Cook II  
Roylance, Abrams, Berdo & Goodman LLP  
1300 19<sup>th</sup> Street NW, Suite 600  
Washington, D.C. 20036

/Leah Z. Halpert/  
Leah Z. Halpert

# Exhibit A

ESTTA Tracking number: **ESTTA543309**

Filing date: **06/17/2013**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	85351186
Applicant	Michael F. Ball
Applied for Mark	RED
Correspondence Address	CASIMIR W COOK II ROYLANCE ABRAMS BERDO & GOODMAN LLP 1300 19TH STREET NW, SUITE 600 WASHINGTON, DC 20036 UNITED STATES CWCdocketing@roylance.com
Submission	Applicant's Motion to Suspend
Attachments	59466 - Motion to Suspend Ex Parte Appeal.pdf(44473 bytes )
Filer's Name	Casimir Cook, NY Bar Member
Filer's e-mail	CWCdocketing@roylance.com
Signature	/Casimir Cook/
Date	06/17/2013

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of	:	
	:	
Michael F. Ball	:	
	:	
Serial No.: 85/351,186	:	Examining Attorney: T. Frazier
	:	Trademark Law Office 116
Filed: June 21, 2011	:	
	:	
Mark: +RED (Stylized)	:	

**MOTION TO SUSPEND EX PARTE APPEAL**

Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, VA 22313-1451

Sir:

Consistent with the Trademark Trial and Appeal Board's Manual of Procedure, Chapter 1213, Applicant hereby moves the Honorable Board to suspend proceedings in the above-identified Ex Parte Appeal. Applicant is involved in *inter partes* Opposition No. 91208003 before the Board (the "Opposition"), which may be dispositive of the issue(s) involved in the Appeal.

The cited Registrant filed the Opposition and appears to assert the very registration that is cited against Applicant's instant application. A Motion to Strike is currently pending in the Opposition that Applicant hopes will clarify which particular registrations the cited Registrant actually asserts as a basis for the Opposition. Once the particular registration(s) is pleaded, Applicant may consider a counterclaim to petition to cancel the cited registration.

Accordingly, Applicant respectfully moves this Honorable Board to suspend proceedings in the Ex Parte Appeal pending the Board's decision on the Motion to Strike in the Opposition, which, if favorable, will potentially give rise to a challenge of the very registration cited in the instant application.

No fee is believed to be due with this request. Should any fee be required, however, please charge our firm's deposit account no. 18-2220 and kindly refer to our docket no. 59466.

Respectfully submitted,

Michael F. Ball



Dated: June 17, 2013

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Casimir W. Cook II  
Roylance, Abrams, Berdo, & Goodman, L.L.P.  
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Washington, D.C. 20036  
Main Telephone: (202) 659-9076  
Attorney for Applicant



ESTTA Tracking number: **ESTTA543310**

Filing date: **06/17/2013**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	85346334
Applicant	Michael F. Ball
Applied for Mark	RED
Correspondence Address	CASIMIR W COOK II ROYLANCE ABRAMS BERDO & GOODMAN LLP 1300 19TH ST NW, SUITE 600 WASHINGTON, DC 20036-1649 UNITED STATES CWCdocketing@roylance.com
Submission	Applicant's Motion to Suspend
Attachments	59467 - Motion to Suspend Ex Parte Appeal.pdf(37898 bytes )
Filer's Name	Casimir Cook, NY Bar Member
Filer's e-mail	CWCdocketing@roylance.com
Signature	/Casimir Cook/
Date	06/17/2013

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of	:	
	:	
Michael F. Ball	:	
	:	
Serial No.: 85/346,334	:	Examining Attorney: H. Thompson
	:	Trademark Law Office 109
Filed: June 14, 2011	:	
	:	
Mark: +RED (Stylized)	:	

**MOTION TO SUSPEND EX PARTE APPEAL**

Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, VA 22313-1451

Sir:

Consistent with the Trademark Trial and Appeal Board's Manual of Procedure, Chapter 1213, Applicant hereby moves the Honorable Board to suspend proceedings in the above-identified Ex Parte Appeal. Applicant is involved in *inter partes* Opposition No. 91208003 before the Board (the "Opposition"), which may be dispositive of the issue(s) involved in the Appeal.

The cited Registrant filed the Opposition and appears to assert the very registration that is cited against Applicant's instant application. A Motion to Strike is currently pending in the Opposition that Applicant hopes will clarify which particular registrations the cited Registrant actually asserts as a basis for the Opposition. Once the particular registration(s) is pleaded, Applicant may consider a counterclaim to petition to cancel the cited registration.

Accordingly, Applicant respectfully moves this Honorable Board to suspend proceedings in the Ex Parte Appeal pending the Board's decision on the Motion to Strike in the Opposition, which, if favorable, will potentially give rise to a challenge of the very registration cited in the instant application.

No fee is believed to be due with this request. Should any fee be required, however, please charge our firm's deposit account no. 18-2220 and kindly refer to our docket no. 59467.

Respectfully submitted,

Michael F. Ball



Dated: June 17, 2013

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